

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

TRUSTEES of the IRON WORKERS  
TRI-STATE WELFARE PLAN et al.,

Plaintiffs

v.

ACA GREENHOUSES INC., a foreign corporation  
not licensed to do business in Illinois,

Defendant.

Case No. 09 cv 5857

Judge Castillo

Motion for Entry of Judgment

Plaintiffs, by its attorney, Daniel P. McAnally, move this Honorable Court to enter Judgment according to Fed. R. Civ. P. 55 for Defendant's failure to appear, answer or otherwise plead. Further, in support of this Motion the Plaintiffs state:

1. Plaintiffs filed their complaint on and the summons and complaint was served on Illinois Secretary of State on November 18, 2009 via the Process Server.

2. The Defendant has failed to appear, answer or otherwise plead within the time allowed by the Fed. R. Civ. P. and this Court entered an Order of Default on February 22, 2010 directing the Defendant to comply with an audit. (Exhibit A, Order of Default)

3. At all times relevant to this action, the Defendant has been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements which created the Trust Funds. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreement, the Defendant is required to submit to an audit to verify the accuracy of the contributions submitted by the Defendant to the Trust Funds.

4. The Plaintiffs audited the books and records of the Defendant to verify that all contributions were submitted. The audit revealed that the Defendant breached the provisions of the Collective Bargaining Agreement by underpaying contributions that are owed to the Trust Funds based upon the hours worked by employees during the period September 2007 through September 2009. The contributions owed to the Trust Funds as a consequence of this breach are \$4,819.85. (Exhibit B, affidavit of Timothy Elliott)

5. The Defendant owes liquidated damages on the unpaid ERISA contributions in the amount of \$1,373.66 pursuant to the Collective Bargaining Agreements, the Trust Agreements and 29 U.S.C. §1132(g)(2)(C)(ii). (Exhibit B)

6. The Defendant owes \$916.98 for necessary and reasonable audit fees, (Exhibit B), \$4,100.25 for necessary and reasonable attorney fees and costs of \$360.00 which are collectible under the terms of the Collective Bargaining Agreement, the Trust Agreements and 29 U.S.C. §1132(g)(2)(D). (Exhibit C, affidavit of Daniel P. McAnally)

WHEREFORE, Plaintiffs pray that their motion for judgment be granted in the amount of \$11,570.74.

Respectively submitted,

s/ DANIEL P. McANALLY  
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